

KCC 4767 (K-C 17,080)
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This letter is responsive to the Office action dated November 4, 2004. Claims 25, 27, and 31 are amended herein, and claims 1-15, 21-23, 26, 28, and 29 are canceled. Claims 16, 20, and 24 were previously canceled. Upon entry of this amendment, claims 17-19, 25, 27, 30, and 31 remain pending.

Applicants have invented a unique method for securing an absorbent article in a fastened configuration for personal wear. Advantages of the invention are a substantial increase in fastener gripping strength and a reduction in the occurrence of "pop opens" when a child wearing training pants stoops or bends. A key feature is contraction of a loop component relative to a hook component at the region of engagement. Prior to contraction, the loop component has a more open structure which allows individual hooks to better penetrate the loop component so that more hooks of the hook component are aligned with loops of the loop component. Upon contraction, relative sliding movement between the fastening components causes more of the hooks to engage with the loops, locking the components together with a stronger grip.

In general, the prior art applied by the Examiner deals with hook and loop fasteners that are attached to or part of something elastic to hold an article (i.e., a diaper or wristband) on a person. The elasticity functions by applying a gripping force to the person's body like an elastic waistband

KCC 4767 (K-C 17,080)
PATENT

applies a force to the waist to hold up a pair of pants. The applied art has nothing to do with, and has no disclosure of, any method for achieving a more secure connection of hook and loop fastening components with each other.

I. Elections/Restrictions

The previously withdrawn claims 1-15, 21-23, 28, and 29 are canceled herein, without prejudice as to the filing of divisional applications.

II. Response to Rejections Under 35 U.S.C. §112

Applicants have amended claim 31 herein to clarify its scope as being within subject matter described in the specification, and to ensure that it further limits the claim from which it depends. Claim 31 now recites, among other requirements:

said elastomeric loop component has a stretchability of at least about 150 percent. . .

The phrase "up to" is eliminated. The specified percent stretchability is explicitly disclosed at page 23, lines 3-7, and again at page 33, lines 14-19. The term "stretchability" is used throughout the application to mean that the component has capability of being stretched to an increased elongation. Thus, the recitation in claim 31 that the loop component has a stretchability of at least about 150 percent means that the component must be capable of elongation to a length about 1.5 times its relaxed length.

KCC 4767 (K-C 17,080)
PATENT

Applicants respectfully submit that claim 31, as presently amended, is clear, definite, and complies with the written description requirements of 35 U.S.C. §112. Accordingly, applicants request that the rejections of claim 31 be withdrawn.

III. Response to Rejections Under 35 U.S.C. §§ 102 and 103

A. Claims 25 and 27

Applicants have amended claim 25 herein to incorporate requirements formerly in claim 26 and to clarify differences between the present invention and the prior art, including particularly U.S. Patent Nos. 5,693,401 (Sommers et al.) and No. 5,386,595 (Kuen et al.). Claim 26 is canceled. As amended, claim 25 recites:

A method for securing engagement between fastening components of an article used for personal wear, the fastening components comprising a hook component and a loop component, the loop component comprising a loop material secured to a substrate, the hook component being capable of fastening engagement with the loop material of the loop component, the method comprising the steps of:

arranging the fastening components in at least partially opposed relationship with each other;

engaging the fastening components with each other to define an engagement seam whereby the hook component fastenably engages the loop material of the loop component; and

contracting said loop component relative to said

KCC 4767 (K-C 17,080)
PATENT

hook component at said engagement seam following engagement of the fastening components to thereby urge sliding movement of one fastening component relative to the other fastening component at the engagement seam to promote increased engagement between the fastening components at the engagement seam.

Sommers et al. disclose a surgical glove retainer comprising an elastic strip (10) having a hook material (30) at one end and a loop material (26) at the opposite end. The hook and loop materials are attached to the elastic strip by sewing. In use, the elastic strip (10) is stretched about the wearer's forearm/wrist, and the hook material is brought into contact with the loop material. The elastic strip (10) is then allowed to retract to form a tight yet non-restrictive fit around the wearer's forearm/wrist (see column 10, lines 28-34). The function of the elastic strip is to apply a gripping force on the glove and underlying wrist. Neither the loop material nor the hook material would stretch or contract.

Sommers et al. fail to show or suggest a step of contracting a loop component relative to a hook component at an engagement seam following engagement of the fastening components to promote increased engagement between the fastening components at the engagement seam. Nowhere in the Sommers patent is there an appreciation or concern for increasing engagement and gripping strength. Nowhere does it suggest that loop material contracts, retracts, or slides

KCC 4767 (K-C 17,080)
PATENT

relative to hook material at the region of engagement. Sommers discloses only a conventional use of hook and loop fasteners by stretching the strip in an intermediate region between the hook component and a corresponding region of engagement on the loop component.

Applicants acknowledge the Examiner's pointing out on page 7 of the Office action that, in one embodiment, Sommers' loop component can be the surface of the stretch bonded laminate which makes up the strip (10), e.g., the gatherable layer. A procedure for donning the strip would require holding the strip at a location (i.e., at a stretch point of origin) and applying tension until the fastening components are attached and form a seam. When tension is released, gathering of the gatherable layer occurs to some degree along the strip between the stretch point of origin and the seam. Sommers does not identify a stretch point of origin, and is silent regarding details of application to a surgeon's wrist. Merely because loop material is stretchable does not provide a disclosure of a method step in which the loop material contracts relative to the hook component at an engagement seam following engagement to promote increased engagement.

Applicants respectfully assert that there is no disclosure or suggestion that Sommers' stretch point of origin would be located beyond the engagement seam. A surgeon or surgeon's assistant will hold the strip so that the engageable portion of the loop component lays generally stationary against the surgeon's inner wrist. Simultaneously, the hook end is wrapped

KCC 4767 (K-C 17,080)
PATENT

around the wrist and pulled. Although a surgeon might grip an extreme end (i.e., free tab end (68)) of the hook end, that would be impractical at the loop end. It would be at the least challenging or more likely impossible to hold the loop end at its tip because it becomes inaccessible as the strip is wrapped around the wrist and is covered by the hook end. Instead, the surgeon would hold the strip against the wrist at a lateral edge located in a longitudinal portion inward of what ultimately becomes the engagement seam. That leaves the loop component free from obstruction so that the hook component may be freely positioned for a desired tension and then engaged. The region of the loop component which forms an engagement region would remain stationary and unstretched at a position on the inner surface of the surgeon's wrist. Thus, the loop material engaged with the hook material would not contract.

Applicants respectfully assert that Sommers' stretch point of origin would be located such that there is no step of contracting of the loop component relative to a hook component at the point of engagement.

To the extent the Office takes a position that this feature is inherent, Applicants respectfully but strongly disagree. Merely because loop material is stretchable does not indicate that it contracts relative to hook component at an engagement seam following engagement to promote increased engagement. The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish inherency. See MPEP 2112 IV, citing In re Rijckaert,

KCC 4767 (K-C 17,080)
PATENT

9 F.3d 1531, 1534 (Fed. Cir. 1993). In relying upon inherency, the Office must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent feature necessarily flows from the teachings of the applied prior art. MPEP 2112 IV citing Ex parte Levy, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990).

Regarding the patent to Kuen et al., it shows in Fig. 7 an attachment system having stretchable straps (76A, 76B) each having a looped face (78). End portions (53, 54) of each strap are pressed against corresponding hook patches (72A, 72B, 74A, 74B).

Kuen et al. fail to show or suggest a step of contracting a loop component relative to a hook component at an engagement seam following engagement of the fastening components to promote increased engagement between the fastening components at the engagement seam. Like the Sommers reference, Kuen nowhere indicates an appreciation or concern for increased engagement and gripping strength. Nowhere does it show or suggest that loop material contracts or retracts relative to hook material at the region of engagement. Merely because loop material is stretchable does not indicate that it contracts relative to hook component at an engagement seam following engagement to promote increased engagement. The straps stretch only in an intermediate region between the two regions of hook/loop engagement. Kuen's attachment procedure, described at column 10, line 58 through column 11, line 30 and which was cited in the Office action, is a conventional attachment of

KCC 4767 (K-C 17,080)
PATENT

hook and loop fasteners. To the extent the Office asserts inherency, the Office must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent feature necessarily flows from the teachings of the applied prior art." MPEP 2112 citing Ex parte Levy, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990).

Since the disclosures of Sommers and Kuen neither disclose nor suggest the method recited in claim 25 as amended, Applicants request that the rejection be withdrawn.

Claim 27 depends directly from claim 25 and is patentable for, among other reasons, the same reason that claim 25 is patentable. Accordingly, applicants respectfully request that claim 27 be allowed. Moreover, claim 27 further requires stretching the elastomeric loop component prior to engaging the fastening components with each other such that the portion of the loop component to be secured to the hook component is stretched, and releasing the stretched loop component following engagement such that the loop component retracts relative to the hook component at the engagement seam. Sommers and Kuen fail to show or suggest these features. Thus, for these additional reasons, the rejections of claim 27 should be withdrawn.

B. Claims 17-19, 30, and 31

Claim 30 requires, among other elements:

positioning a mechanical fastening system on the body, the mechanical fastening system comprising a

KCC 4767 (K-C 17,080)
PATENT

loop component and a hook component, the loop component comprising a loop material secured to an elastomeric substrate such that the loop component is elastomeric at the loop material, the hook component being fastenably engageable with the loop material of the loop component;

stretching the loop component at the loop material;

engaging the hook component and the loop component whereby the hook component fastenably engages the loop material of the loop component; and allowing the loop component to retract **at the loop material.**

Kuen et al. fail to show or suggest a method including stretching the loop component at the loop material, engaging the hook component and the loop component, and allowing the loop component to retract at the loop material. As discussed above, Kuen shows a conventional method for attaching hook and loop fasteners.

Since the invention in Kuen neither discloses nor suggests the method recited in claim 30, Applicants request that the rejection be withdrawn.

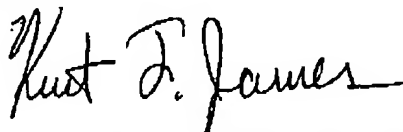
Claims 17-19 and 31 each depend from claim 30 and are patentable for, among other reasons, the same reason that claim 30 is patentable. Accordingly, applicants respectfully request that claims 17-19 and 31 be allowed.

KCC 4767 (K-C 17,080)
PATENT

IV. Conclusion

In view of the foregoing, favorable consideration and allowance of claims 17-19, 25, 27, 30, and 31 as now presented are respectfully requested.

Respectfully submitted,



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